

## Message Text

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ACTION STR-05

INFO OCT-01 IO-14 ISO-00 STRE-00 FEA-01 AGRE-00 CEA-01  
CIAE-00 COME-00 DODE-00 EB-08 FRB-01 H-02 INR-07  
INT-05 L-03 LAB-04 NSAE-00 NSC-05 PA-02 CTME-00  
AID-05 SS-15 ITC-01 TRSE-00 USIA-15 PRS-01 SP-02  
OMB-01 AF-10 ARA-14 EA-12 EUR-12 NEA-10 /157 W  
-----001022 291952Z /43

P 291741Z NOV 77

FM USMISSION GENEVA  
TO SECSTATE WASHDC PRIORITY 3540

UNCLAS SECTION 01 OF 02 GENEVA 11184

USMTN

ACTION STR FOR GREENWALD, LANDE, MATTHEISEN

E.O.11652: N/A

TAGS: ETRD, GATT, MTN

SUBJECT: FRAMEWORK GROUP--INTERIM DISCUSSION OUTLINE ON  
EXPORT CONTROLS

REF: A) GENEVA 10388, B) GENEVA 8836

1. PURSUANT TO REF A, WE PROVIDE BELOW A PRELIMINARY  
OUTLINE OF DISCUSSION POINTS RELATED TO FRAMEWORK GROUP  
(FG) TOPIC ON EXPORT CONTROLS. SUBJECT TO ANY FURTHER  
GUIDANCE FROM WASHINGTON, WE WOULD PLAN TO USE OUTLINE  
AS AN INTERIM DEVICE, FOR EARLY KICKOFF OF PLUTILATERAL  
DISCUSSIONS GEARED TOWARD (A) ASSURING OTHERS THAT U.S.  
OBJECTIVES IN THIS AREA ARE LIMITED AND SPECIFIC, AND (B)  
ESTABLISHING APPROPRIATE BASIS FOR ACTIVE PARTICIPATION  
BY OTHER DELS. FIRST OF THESE PLURILATERAL SESSIONS  
ON EXPORT CONTROLS NOW SCHEDULED FOR DECEMBER 2.

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2. BEGIN TEXT: INTERIM DISCUSSION OUTLINE ON FRAMEWORK  
TOPIC NO. 5 (EXPORT CONTROLS):

I. OBJECTIVES OF DISCUSSION:

A. TO EXAMINE EXISTING GATT PROVISIONS AS THEY  
RELATE TO EXPORT CONTROLS, WITH A VIEW TO CLARIFYING

THEIR MEANING AND IDENTIFYING AREAS IN WHICH FURTHER REVIEW WOULD BE USEFUL; AND

B. TO IDENTIFY IMPROVEMENTS BUILDING ON THOSE PROVISIONS WHICH, INsofar AS POSSIBLE, MIGHT ALLEVIATE THE UNCERTAINTY, UNPREDICTABILITY, LACK OF CONFIDENCE AND FEAR OF ARBITRARINESS SURROUNDING CURRENT APPLICATION OF EXPORT CONTROLS.

## II. SUBJECTS EXCLUDED FROM DISCUSSION:

A. NO DISCUSSION IN FG OF OBLIGATIONS TO GUARANTEE SUPPLIES;

B. NO DISCUSSION OF ABSOLUTE PROHIBITIONS ON EXPORT CONTROLS;

C. NO EXAMINATION OF DOMESTIC POLICY MEASURES ON INVESTMENT, PRODUCTION OR STOCKPILING;

D. NO DISCUSSION WHICH WOULD QUESTION NATIONAL SOVEREIGNTY OVER NATURAL RESOURCES;

E. NO ATTEMPT TO NEGOTIATE SPECIFIC "SUPPLY ACCESS" COMMITMENTS IN FG.

## III. SUMMARY OF U.S. VIEWS ON GATT PROVISIONS RELEVANT TO USE OF EXPORT CONTROLS:

A. MUCH OF BASIC GATT REGULATORY SCHEME APPLIES UNCLASSIFIED

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AT A GENERAL LEVEL TO BOTH IMPORTS AND EXPORTS.

B. EXPORT TAXES AND DUTIES ARE PERMITTED, SUBJECT TO GENERAL MFN CLAUSE AND WITH THE EXPECTATION THEY WOULD BE SUBJECT TO NEGOTIATION; HOWEVER, GATT PROVISIONS ON NATIONAL TREATMENT, EMERGENCY ACTION, AND RENEGOTIATION OF CONCESSIONS HAVE NOT BEEN APPLIED TO EXPORTS.

C. PROHIBITIONS OR RESTRICTIONS OF EXPORTS OTHER THAN WITH DUTIES, TAXES, OR OTHER CHANGES ARE PROHIBITED, EXCEPT WHEN JUSTIFIED UNDER SPECIFIC EXCEPTIONS OF ARTICLES XI, XX, OR XXI.

D. MEANING OF KEY PHRASEOLOGY IN THOSE EXCEPTIONS NEEDS TO BE EXAMINED, GIVEN LACK OF MUCH CASE HISTORY AND ABSENCE OF ANY REGULAR NOTIFICATION/REVIEW/EVALUATION OF MEASURES TAKEN.

E. SPECIFIC GATT PROVISIONS RELEVANT TO USE OF EXPORT CONTROLS CONTAINED IN ARTICLES I, II, VII, VIII, X, XI, XIII, XIV, XV, XVII, XX (AT LEAST PARAS G, H, I AND J), XXI, XXIV, XXVIII AND XXVIII BIS.

## IV. CRITERIA FOR STRENGTHENING OF GATT PROVISIONS:

A. EMPHASIS ON FAIR ADMINISTRATION OF EXPORT CON-

TROLS USED.

B. GENERALLY AIM FOR GREATER PRACTICAL COMPARABILITY  
BETWEEN DEGREE OF DISCIPLINE APPLIED TO EXPORT CONTROLS  
AND THAT APPLIED TO IMPORT CONTROLS.

V. POINTS FOR FURTHER DISCUSSION:

- A. REGULAR NOTIFICATION, INCLUDING THIRD-PARTY;
- B. CONSULTATION;
- C. GATT REVIEW;
- D. NON-DISCRIMINATION;
- E. TEMPORARINESS;
- F. DEGRESSIVITY;
- G. USE OF EMBARGOES;

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UNCLAS SECTION 02 OF 02 GENEVA 11184

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ACTION STR FOR GREENWALD, LANDE, MATTHEISEN

H. SHARING OF SHORT-SUPPLY BURDENS.

END TEXT.

3. ABOVE TEXT DRAWN LARGELY FROM POINTS ALREADY MADE  
BY U.S. IN FG (MTN/FR/W/2) AND OUR PREPARATIONS FOR  
BILATERAL WITH CANADIAN DEL LAST SPRING (GENEVA 2373),  
AND HAS BEEN SATISFACTORILY "TEST FLOWN" IN SEVERAL  
RECENT BILATERALS. THUS, FOLLOWING GENERAL TALK ALONG  
THESE LINES IN PLURILATERAL SETTING (AND SOME FURTHER  
REFINEMENT OF U.S. THINKING ON THE SUBJECT), WE SHOULD

BE IN POSITION TO DEVELOP MORE DETAILED AND COMPREHENSIVE  
DISCUSSION OUTLINE SIMILAR TO THAT PROVIDED IN GENEVA  
10605 ON BOP MEASURES.

4. DRAFTED BY MARK. CULBERT

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## Message Attributes

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**Channel Indicators:** n/a  
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**Previous Handling Restrictions:** n/a  
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**Review Markings:**  
Margaret P. Grafeld  
Declassified/Released  
US Department of State  
EO Systematic Review  
22 May 2009  
**Markings:** Margaret P. Grafeld Declassified/Released US Department of State EO Systematic Review 22 May 2009